

Volume 27, Number 1  
Pages 1-64  
January 2, 2002



**MATT BLUNT**

**SECRETARY OF STATE**

MISSOURI  
REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015 and 536.033, RSMo 2000. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or "official" without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

**SECRETARY OF STATE**

**MAT T BLUNT**

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

DIRECTOR

LYNNE C. ANGLE

ADMINISTRATIVE STAFF

SANDY SANDERS

KIM MOSELEY

EDITORS

BARBARA McDOUGAL

JAMES McCLURE

ASSOCIATE EDITORS

CURTIS W. TREAT

SALLY L. REID

PUBLISHING STAFF

WILBUR HIGHBARGER

CARLA HERTZING

JOHN C. STEGMANN

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO

Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

**MISSOURI REGISTER**

Office of the Secretary of State

Administrative Rules Division

PO Box 1767

Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://mosl.sos.state.mo.us/moreg/moreg.htm> and the CSR is <http://mosl.sos.state.mo.us/csr/csr.htm>. These web sites contain rulemakings and regulations as they appear in the Registers and CSR. These web sites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo 2000. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications. The Administrative Rules Division may be contacted by e-mail at [rules@sosmail.state.mo.us](mailto:rules@sosmail.state.mo.us).

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



## IN THIS ISSUE:

### EMERGENCY RULES

**Department of Social Services**  
 Missouri Board of Nursing Home Administrators . . . . .5

### PROPOSED RULES

**Department of Agriculture**  
 Weights and Measures . . . . .7

**Department of Economic Development**  
 State Board of Cosmetology . . . . .14  
 Division of Credit Unions . . . . .16  
 Missouri Board of Occupational Therapy . . . . .18  
 State Board of Pharmacy . . . . .18

**Department of Social Services**  
 Missouri Board of Nursing Home Administrators . . . . .19

### ORDERS OF RULEMAKING

**Department of Economic Development**  
 Acupuncturist Advisory Committee . . . . .21  
 State Board of Pharmacy . . . . .23

**Department of Labor and Industrial Relations**  
 Missouri Assistive Technology Advisory Council . . . . .23

**Department of Public Safety**  
 Office of the Director . . . . .23  
 Missouri State Highway Patrol . . . . .24

**Department of Revenue**  
 Director of Revenue . . . . .24

**Department of Social Services**  
 Division of Medical Services . . . . .24

**Department of Health and Senior Services**  
 Division of Environmental Health and Communicable  
 Disease Prevention . . . . .25  
 Division of Health Standards and Licensure . . . . .37

### IN ADDITIONS

**Department of Health and Senior Services**  
 Division of Environmental Health and Communicable  
 Disease Prevention . . . . .41

**Department of Insurance** . . . . .41

### DISSOLUTIONS

. . . . .42

### BID OPENINGS

**Office of Administration**  
 Division of Purchasing . . . . .45

**RULE CHANGES SINCE UPDATE** . . . . .46

**EMERGENCY RULES IN EFFECT** . . . . .55

**REGISTER INDEX** . . . . .57

<b>Register Filing Deadlines</b>	<b>Register Publication</b>	<b>Code Publication</b>	<b>Code Effective</b>
Aug. 31, 2001 Sept. 14, 2001	<b>Oct. 1, 2001</b> <b>Oct. 15, 2001</b>	Oct. 31, 2001 Oct. 31, 2001	Nov. 30, 2001 Nov. 30, 2001
Oct. 2, 2001 Oct. 16, 2001	<b>Nov. 1, 2001</b> <b>Nov. 15, 2001</b>	Nov. 30, 2001 Nov. 30, 2001	Dec. 30, 2001 Dec. 30, 2001
Nov. 1, 2001 Nov. 15, 2001	<b>Dec. 3, 2001</b> <b>Dec. 17, 2001</b>	Dec. 31, 2001 Dec. 31, 2001	Jan. 30, 2002 Jan. 30, 2002
December 3, 2001 December 17, 2001	<b>January 2, 2002</b> <b>January 16, 2002</b>	January 29, 2002 January 29, 2002	February 28, 2002 February 28, 2002
January 2, 2002 January 16, 2002	<b>February 1, 2002</b> <b>February 15, 2002</b>	February 28, 2002 February 28, 2002	March 30, 2002 March 30, 2002
February 1, 2002 February 15, 2002	<b>March 1, 2002</b> <b>March 15, 2002</b>	March 31, 2002 March 31, 2002	April 30, 2002 April 30, 2002
March 1, 2002 March 15, 2002	<b>April 1, 2002</b> <b>April 15, 2002</b>	April 30, 2002 April 30, 2002	May 30, 2002 May 30, 2002
April 1, 2002 April 15, 2002	<b>May 1, 2002</b> <b>May 15, 2002</b>	May 31, 2002 May 31, 2002	June 30, 2002 June 30, 2002
May 1, 2002 May 15, 2002	<b>June 3, 2002</b> <b>June 17, 2002</b>	June 30, 2002 June 30, 2002	July 30, 2002 July 30, 2002

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

# Missouri Depository Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Depository Documents Law (section 181.100, RSMo 2000), are available in the listed depository libraries, as selected by the Missouri State Library:

Jefferson County Library PO Box 1486, 3021 High Ridge High Ridge, MO 63049-1486 (314) 677-8689	Learning Resources Center Mineral Area College PO Box 1000 Park Hills, MO 63601-1000 (573) 431-4593	B.D. Owens Library Northwest Missouri State University 800 University Drive Maryville, MO 64468-6001 (660) 562-1841	School of Law University of Missouri-Columbia 224 Hulston Hall Columbia, MO 65211-0001 (573) 882-1125
Jefferson College Library 1000 Viking Drive Hillsboro, MO 63050-2441 (314) 789-3951	Cape Girardeau Public Library 711 N. Clark Cape Girardeau, MO 63701-4400 (573) 334-5279	River Bluffs Regional Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151	Central Methodist College Smiley Memorial Library 411 Central Methodist Square Fayette, MO 65248-1198 (660) 248-6292
St. Louis Public Library 1301 Olive St. St. Louis, MO 63103-2389 (314) 539-0376	Kent Library Southeast Missouri State University One University Plaza Cape Girardeau, MO 63701-4799 (573) 651-2757	Missouri Western State College Hearnes Learning Resources Ctr. 4525 Downs Drive St. Joseph, MO 64507-2294 (816) 271-5802	Library University of Missouri-Rolla 1870 Miner Circle Rolla, MO 65409-0060 (573) 341-4007
St. Louis University Law Library 3700 Lindell Blvd. St. Louis, MO 63108-3478 (314) 977-2756	Riverside Regional Library PO Box 389, 204 South Union St. Jackson, MO 63755-0389 (573) 243-8141	Library North Central Missouri College PO Box 111, 1301 Main Street Trenton, MO 64683-0107 (660) 359-3948	Kinderhook Regional Library 135 Harwood Ave. Lebanon, MO 65536-3017 (417) 532-2148
Eden Theological Seminary/ Webster University Eden/Webster Library 475 East Lockwood Ave. St. Louis, MO 63119-3192 (314) 961-2660	Rutland Library Three Rivers Community College 2080 Three Rivers Blvd. Poplar Bluff, MO 63901-2393 (573) 840-9656	Missouri Southern State College Spiva Library 3950 East Newman Road Joplin, MO 64801-1595 (417) 625-9770	ESTEP Library Southwest Baptist University 1601 S. Springfield Street Bolivar, MO 65613-2597 (417) 326-5281
Thomas Jefferson Library University of Missouri-St. Louis 8001 Natural Bridge Road St. Louis, MO 63121-4499 (314) 516-5084	Charles F. Curry Library William Jewell College 500 College Hill Liberty, MO 64068-1896 (816) 781-7700	Missouri State Library 600 West Main, PO Box 387 Jefferson City, MO 65102-0387 (573) 751-3075	Barry-Lawrence Regional Library 213 6th St. Monett, MO 65708-2147 (417) 235-6646
Washington University Washington University Law Library Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6484	Ward Edwards Library Central Missouri State University 142 Edwards Library Warrensburg, MO 64093-5020 (660) 543-4149	Missouri State Archives 600 West Main, PO Box 778 Jefferson City, MO 65102-0778 (573) 526-6711	Lyons Memorial Library College of the Ozarks General Delivery Point Lookout, MO 65726-9999 (417) 334-6411
St. Louis County Library 1640 S. Lindbergh Blvd. St. Louis, MO 63131-3598 (314) 994-3300	Kansas City Public Library 311 East 12th St. Kansas City, MO 64106-2454 (816) 701-3400	Elmer Ellis Library University of Missouri-Columbia 104 Ellis Library Columbia, MO 65211-5149 (573) 882-6733	West Plains Campus Library Southwest Missouri State University 123 N. Minnesota West Plains, MO 65775-3414 (417) 256-9865
Maryville University Library 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65201-7298 (573) 882-7083	Springfield-Greene County Library PO Box 737, 397 E. Central Springfield, MO 65801-0760 (417) 869-4621
St. Charles City-County Library Middendorf-Kredell Branch 2750 Hwy K O'Fallon, MO 63366-7859 (314) 978-7997	University of Missouri-Kansas City Miller Nichols Library 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-1281	Daniel Boone Regional Library PO Box 1267, 100 West Broadway Columbia, MO 65205-1267 (573) 443-3161	Meyer Library Southwest Missouri State University PO Box 175, 901 S. National Springfield, MO 65804-0095 (417) 836-4533
Truman State University Pickler Memorial Library 100 E. Normal Kirksville, MO 63501-4221 (660) 785-7416			

## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are cited in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

*possibility of forfeiture. In addition, the process of registering, testing, and receiving test results will be more timely for applicants. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 30, 2001, effective January 1, 2002, and expires June 29, 2002.*

(1) The following fees are required by the Board of Nursing Home Administrators:

- (C) State Exam Fee [and computer administration fee for the state exam as fixed by the National Association of Board of Examiners of Long Term Care Administrators] **\$75.00;**
- (E) License Renewal Late Penalty Fee  
(This fee is in addition to the renewal fee listed in subsection (1)(C)(D)) **\$25.00;**

(2) Fees listed in (1)(A) and [(D)] (C)–(H) must be made payable to the Division of Aging in the form of a cashier’s check, company check or money order. Fees listed in (1)(B) [and (C)] must be made payable to the National Association of Board of Examiners of Long Term Care Administrators (NAB).

*AUTHORITY: section 344.070, RSMo [Supp. 1998] 2000. Original rule filed Jan. 3, 1992, effective May 14, 1992. Amended: Filed March 4, 1993, effective Aug. 9, 1993. Emergency amendment filed Nov. 17, 1999, effective Dec. 11, 1999, expired June 7, 2000. Amended: Filed Nov. 1, 1999, effective April 30, 2000. Emergency amendment filed Nov. 30, 2001, effective Jan. 1, 2002, expires June 29, 2002. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

## Title 13—DEPARTMENT OF SOCIAL SERVICES Division 73—Board of Nursing Home Administrators Chapter 2—General Rules

### EMERGENCY AMENDMENT

**13 CSR 73-2.015 Fees.** The board is amending subsections (1)(C) and (E), and section (2).

*PURPOSE: This amendment establishes the dollar amount for the state exam fee and the payee of that fee. It also deletes language referencing the computer administration fee.*

*EMERGENCY STATEMENT: This emergency amendment informs applicants for licensure that a state exam fee has been set by the Board and replaces the fees fixed by and paid to the National Association of Boards of Examiners of Long Term Care Administrators (NAB). This emergency amendment is necessary because the contract with NAB, to administer a computer based state examination (CBT), will expire on Dec. 31, 2001 and the Board does not wish to enter a new agreement. The Board has determined that Missouri’s applicants are unnecessarily penalized because of policies of NAB and the testing service. Strict appointment procedures have caused applicants to forfeit their fees and created lengthy delays in the testing process. This emergency amendment will allow the Board to administer the state exam without an additional cost for computerized testing and without the*

## Title 13—DEPARTMENT OF SOCIAL SERVICES Division 73—Board of Nursing Home Administrators Chapter 2—General Rules

### EMERGENCY AMENDMENT

**13 CSR 73-2.070 Examination.** The board is amending sections (2) and (3), moving and renumbering sections (4)–(7) to section (3) subsections (A)–(D), adding a new section (4), and renumbering sections (8)–(11).

*PURPOSE: This amendment establishes separate procedures for taking the national exam and the state exam.*

*EMERGENCY STATEMENT: This emergency amendment informs applicants for licensure that there are separate procedures for taking the national exam and the state exam. This emergency amendment is necessary because the contract with NAB, to administer a computer based state examination (CBT), will expire on Dec. 31, 2001 and the Board does not wish to enter a new agreement. The Board has determined that Missouri’s applicants are unnecessarily penalized because of policies of NAB and the testing service. Strict appointment procedures have caused applicants to forfeit their fees and created lengthy delays in the testing process. This emergency amendment will allow the Board to administer the state exam without an additional cost for computerized testing and without the possibility of forfeiture. In addition, the process of registering, testing, and receiving test results will be more timely for*

applicants. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 30, 2001, effective January 1, 2002, and expires June 29, 2002.

(2) The examination(s) must be taken within twelve (12) months of the written notice of board evaluation and qualification. Failure to do so will cause full reapplication to be necessary.

(3) Qualified applicants will be eligible to take the national [and/or state] examination through the testing service by following the procedures set forth in subsections [(4)-(7)] (A)-(D) [of this rule].

[(4)] (A) Applicants must submit the National Association of Boards of Examiners of Long Term Care Administrators (NAB) Application Form for Computerized Testing, the **Fee Payment Transmittal Form**, and the required fees to the board office. The applicant will receive from the testing service an authorization letter including a list of testing center vendors, each center's toll-free telephone number and instructions on the scheduling process.

[(5)] (B) Applicants must schedule to sit the examination within sixty (60) days of the date on the testing service's authorization letter.

[(6)] (C) Failure to schedule and sit the examination(s) within the sixty (60)-day period will cause the applicant's name to be removed from the eligibility list kept by the testing service. Applicants may reschedule by resubmitting the NAB Application Forms and paying any required fees.

[(7)] (D) Applicants must comply with all criteria and requirements established by the board, the National Association of Board of Examiners of Long Term Care Administrators (NAB), the testing service and the testing center.

**(4) Qualified applicants will be eligible to take the state examination administered by the board once a written request and the seventy-five (\$75) fee are received by the board. The examination will be scheduled at least monthly if one (1) or more applicants are awaiting examination.**

[(8)] (5) Individuals making initial application for licensure, within twenty-one (21) days of a board meeting date, may be required to wait until a subsequent date to be evaluated.

[(9)] (6) Applicants shall obtain a passing score on the examination(s) administered by the board. The passing score shall be based upon the scale score passing point of one hundred thirteen (113) on the federal portion of the examination and seventy-five percent (75%) on the state portion of the examination.

[(10)] (7) If an applicant fails to make a passing grade on one or both of the required examinations, the applicant may make application for reexamination and pay the required fees. If an applicant fails only one of the required examinations and then fails to retake and pass the examination within a twelve (12)-month period, the applicant shall be required to take and pass both examinations before the board will issue the applicant a license.

[(11)] (8) If an applicant fails the examination a third time, the applicant must complete a course of instruction prescribed and approved by the board. After completion of the board-prescribed course of instruction, the applicant may reapply for board-approved examination(s). No applicant shall be licensed by the board after a third licensure examination failure unless the appli-

cant successfully completes the board-prescribed course of instruction and passes the board-approved examination(s). With regard to any nationally certified examination required for licensure, no examination scores from other states shall be recognized by the board after the applicant has failed for a third time to pass the examination.

*AUTHORITY: section 344.070, RSMo [Supp. 1998] 2000. Original rule filed May 13, 1980, effective Aug. 11, 1980. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Nov. 30, 2001, effective Jan. 1, 2002, expires June 29, 2002. A proposed amendment covering this same material is published in this issue of the Missouri Register.*